

GJSK010013392026 	Admitted on	:	22.05.2026		
	Decided on	:	02.06.2026		
	Duration	:		00	00
			Years	Months	Days

**IN THE COURT OF THE ADDITIONAL SESSIONS JUDGE
SABARKANTHA AT HIMMATNAGAR**

Exh. No.....

Criminal Misc. (Regular Bail) Application No. 565/2026

Applicant : **Vishalbhai Babarbhai Rabari**
Age:-23 years, Occupation: Animal husbandry,
Residing at :- Derol, Rabari Vas,
Ta.Himmatnagar, Dis.Sabarkantha

Versus

Opponent : The State of Gujarat,
Notice through the P.P.
Ad.P.P. Office, Himmatnagar, District-Sabarkantha.

Appearance: Applicant side - Ld. Advocate Shri. I. I. Khanusiya
Opponent side - Ld. PP Shri. H.V. Trivedi

J U D G M E N T

1. The applicant – accused has filed the present application under sec. 483 of the BNSS to obtain regular bail in connection with the offence registered with Himmatnagar "B" Division Police Station I C. R. No. 112 090 562 50205/2025 under Sections 118(1), 118(2), 109(1), 238 and 54, of I.P.C. and Section 135 of G. P. Act dated 12.03.2025.

2. Read the present bail application, perused the case record and taken into consideration the material. It is submitted by the applicant - accused that he was arrested by police and produced before the Magi. Court, and now charge-sheet has been filed in this case and as the Magi. Court has no jurisdiction to try the alleged offence, the same was committed before this court.

As the first bail preferred after the charge-sheet, has been rejected, the present one has been preferred as the second one after the charge-sheet.

3. The gist of the arguments advanced by Ld. Advocate for the applicant - accused is such that has submitted that, the applicant is innocent person, not committed the offence whatever alleged by the prosecution against him and He has been falsely implicated. There is no prima-facie case against him. Whole complaint is fabricated.

The offence alleged is triable by this court, and the charge-sheet has been already filed. and the applicant has no criminal antecedents.

The applicant is of 23 years, engaged in animal husbandry work and is in the jail since the day of arrest i.e. 14/03/2025.

The complainant is the father of the deceased and other witnesses are interested witnesses. So he has been falsely implicated.

The incident was spontaneous one, there was no motive or intention to kill the deceased victim.

The complainant is not an eye witness.

The applicant/accused has not caused any fatal injury as per the evidence gathered.

No muddamal has been recovered from him or discovered at his instance and now further muddamal has remained to be recovered. No weapon or incriminating material has been seized from him

There are material contradictions in the statements of the witnesses and in evidence gathered.

The FIR is delayed one and no plausible explanation has been offered for that.

As he is in judicial custody since long time, it will prove a pre-trial punishment.

Looking at the statements of family members of the deceased as well as other witnesses, no one has stated that the murder has been caused by the applicant. The neighbours, residing nearby, have not given such statement that the murder was caused by the applicant. No motive behind such crime, has been revealed during the investigation. The offence u/s 302 of IPC has not been made out.

It is also submitted that he is local resident and engaged in labourer. He is having family. If he is not released on bail, he has to remain in jail for unnecessary longer period and his family has to suffer a lot. He is ready & willing to furnish bail as court deems fit and shall comply with all the conditions imposed upon him. So, it has been urged to be enlarged on bail with suitable terms and conditions.

4. Read the affidavit made by IO, and heard the arguments advanced by Ld. AdPP.

Raising a strong objection against this application, Ld. AdPP appeared on behalf of the opponent i.e. the state and has submitted that accused has allegedly committed a gravious offence, there is prima-facies case against the applicant and has casted a doubt that there is a possibility of tampering with evidence.

No new ground for bail, has arisen after the rejection of the CRMA No. 521/2025 decided on 04/07/2025.

Though he has been arraigned as co-accused, he was part of the team and palyed an active role in committing the offence.

The deceased and Kuvarji Bhatt are the eye witness.

The offence has been committed with preparation and the same incident is not a spontaneous one.

The cricket bat used to commit murder, was recovered and has been seized. Blood stained clothes have been seized.

The charge-sheet has been filed. Charge has been framed and evidence is being recorded.

Both the parties are residing in different villages.

Looking to the role of the accused, mentality to commit offence and also the gravity of the offence, he is not entitled to be enlarged on bail.

The applicant may jump the bail, if enlarged on bail or may repeat the offence. Therefore, in these circumstances, as the applicant is not entitled to be enlarged on bail, the present application is required to be dismissed.

5. While dealing with the issue of which factors are required to be considered while deciding bail application, in a case of State of Uttar Pradesh v. Amarmani Tripathi, reported in 2005(8) SCC 21, the Hon'ble Apex Court held that "it is well settled that the matters to be considered in an application for bail are (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence (ii) nature and gravity of the charge (iii) severity of the punishment in the event of conviction (iv) danger of the accused absconding or fleeing, if released on bail (v) character, behavior, means, position and standing of the accused (vi) likelihood of the offence being repeated (vii) danger, of course, of justice being thwarted by grant of bail. Moreover, the Hon. Apex Court also held that while a vague allegation that the accused may temper with the evidence or witnesses may not be a ground to refuse bail, if the accused is of such character that his mere presence at large would intimidate the witnesses or if there is material to show that he will use his liberty to subvert justice or tamper with the evidence, then bail will be refused." The above laid down ratio is required to be kept in mind while exercising discretion to enlarge on bail.

6. Now in the present matter, I have heard the Ld. Advocate for the parties, perused the case-record. From the perusal of case record, it is undisputed that the applicant is of young age, he is a local resident and the offence alleged is a gravis one, punishable with death and triable by this

court, and investigation is over and the charge-sheet has already been filed and the evidence is being recorded and the applicant has no criminal antecedents.

The applicant is of 23 years, engaged in animal husbandry work and is in the jail since the day of arrest i.e. 14/03/2025.

It is pertinent to note that in CRMA No. 521/2025 decided and rejected on 04/07/2025, all the issues including the filing of the charge-sheet, evidence gathered by the IO and discrepancies therein have been taken into consideration. As per my humble view, now only new grounds arose thereafter, are required to be considered.

It is also undisputed that the complainant is the father of the deceased and is not an eye witness.

As per the prosecution case, total four accused beaten the deceased with Cricket Bat and caused severe injuries and caused his death. and this applicant has caused injuries by fist and kicks.

It appears that the deceased himself and Kuvarji Bhatt are the eye witness.

It is undisputed that both the parties are residing at different places.

Moreover, it appears that the cricket bat and blood stained clothes, were recovered and seized.

From the facts surfaced after investigation, it can safely be gathered that offence U/s 302 of IPC has, prima-facie, been made out.

It has been contended that the FIR is a delayed one and the same is a delayed one, But looking to the circumstances, the same contention, no much value can be attached to such contention.

It has been submitted that the applicant/accused has not caused any fatal injury as per the evidence gathered, no muddamal has been recovered from him or discovered at his instance and now further muddamal has remained to be recovered, no weapon or incriminating material has been seized from him. But the same facts have already been taken into consideration in earlier bail preferred after the charge-sheet.

Now the only the sole ground that he is in jail for a long period and it will prove a pre-trial punishment, is required to be considered. But it is not a case that he is languishing in jail since long. So the same ground also would not justify his enlargement on regular bail.

But looking at the above mentioned grounds, as the offence is a gravis one and prima-facie case has been established.

The same facts discussed above requires due consideration and the same can't be overlooked or sidelined or disregarded while deciding this application and so at this juncture, this case does not deserve a discretion to be exercised in favour of the applicant.

7. Moreover, it has been contended that no prima-facie active involvement has been established and he has been falsely implicated.

But it is pertinent to note that no deep appreciation of evidence is required at this stage.

The same contentions have no substance and looking at the other side, the offence alleged is a gravis one. The evidence gathered by the investigation agency, are leading towards prima-facie involvement of the applicant accused.

8. Moreover, the gravity of the offence outweighs the grounds set forth. Looking at the gravity of the offence and the role played by the present applicant, upon grounds set forth, the discretion vested with, is not proper to be exercised in favour of the applicant.

Moreover, this one is not a case where accused is languishing in jail since long time.

9. Hence, in the light of the discussion made above, the gravity of present offence, severity of punishment prescribed for the offence as well as role played in committing the crime, this case does not appear fit to exercise the discretion vested with, in favour of accused and to enlarge the applicant -

accused on bail. This court comes to a conclusion that the applicant accused should not be enlarged on this stage and in pursuance thereof the following order is hereby passed.

ORDER

The present bail application CRMA No. 565/2026, preferred by Vishalbhai Babarbai Rabari, seeking regular bail U/s 483 of BNSS, is hereby, disallowed.

Read & Pronounced in the open Court.

Date : 02/06/2026
Himmatnagar.

M. N. Shaikh. (GJ00611),
Addl. Sessions Judge, Himmatnagar. (S.K.)

Pramod S. Goyal***